

AMENDED IN ASSEMBLY APRIL 14, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2793

Introduced by Committee on Governmental Organization (Coto (Chair), Bradford, Chesbro, Evans, Galgiani, Hall, Hill, Lieu, Mendoza, V. Manuel Perez, and Portantino)

March 17, 2010

An act to *amend Section 25503.42 of, and to add Section 23433.5 to, the Business and Professions Code*, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2793, as amended, Committee on Governmental Organization. Alcoholic beverage control: *advertising*: club licenses.

Existing law provides for the issuance of a club license for the sale of alcoholic beverages to specified organizations.

This bill would authorize the Department of Alcoholic Beverage Control to issue a club license to nonprofit lawn bowls clubs, that do not discriminate or restrict membership, as specified.

The Alcoholic Beverage Control Act provides that a violation of its provisions is a misdemeanor, unless otherwise specified.

This bill, by including provisions that would be subject to those existing criminal sanctions, would impose a state-mandated local program.

Existing law generally restricts certain alcoholic beverage licensees, including manufacturers and winegrowers, from paying, crediting, or compensating a retailer for advertising in connection with the advertising and sale of alcoholic beverages but expressly authorizes specified licensees to purchase advertising space or time from specified fully enclosed venues located in Los Angeles County that have a

patronage capacity in excess of 2,000, as described, under specified conditions.

This bill would limit the patronage capacity allowed in the described venues to at least 2,000, but not more than 3,000.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23433.5 is added to the Business and
2 Professions Code, to read:

3 23433.5. (a) For the purposes of this article, “club” also means
4 any nonprofit lawn bowls club.

5 (b) No license shall be issued to any nonprofit lawn bowls club
6 qualifying as a club pursuant to this section if the nonprofit lawn
7 bowls club in any manner restricts membership or the use of its
8 facilities on the basis of age or any characteristic listed or defined
9 in subdivision (b) or (e) of Section 51 of the Civil Code.

10 SEC. 2. Section 25503.42 of the Business and Professions Code
11 is amended to read:

12 25503.42. (a) Notwithstanding any other provision of this
13 chapter, a beer manufacturer, the holder of a winegrower’s license,
14 a California winegrower’s agent, a holder of a distilled spirits
15 rectifiers general license, a distilled spirits manufacturer, or a
16 distilled spirits manufacturer’s agent may purchase indoor
17 advertising space or time at a fully enclosed venue with box office
18 sales and attendance by the public on a ticketed basis only, with
19 a patronage capacity in excess of 2,000, *but not more than 3,000*,
20 located in Los Angeles County within the area subject to the Los
21 Angeles Sports and Entertainment District Specific Plan adopted
22 by the City of Los Angeles pursuant to ordinance number 174225,
23 as approved on September 6, 2001, where the owner of the venue
24 is not the on-sale retail licensee. The purchase of the indoor
25 advertising space or time shall be subject to all of the following
26 conditions:

1 (1) The indoor advertising space or time is purchased only at
2 the venue specified in this subdivision.

3 (2) The purchase of indoor advertising space or time shall be
4 conducted pursuant to a written agreement entered into by the beer
5 manufacturer, holder of a winegrower's license, California
6 winegrower's agent, holder of a distilled spirits rectifiers general
7 license, distilled spirits manufacturer, or a distilled spirits
8 manufacturer's agent and the owner of the venue described in this
9 subdivision. A holder of a wholesale license shall not be a party
10 to the written agreement or otherwise have any direct or indirect
11 obligations under the agreement, including an obligation to share
12 in the costs or contribute to the costs of the indoor advertising
13 space or time purchased pursuant to this section.

14 (3) An agreement for the purchase of indoor advertising space
15 or time pursuant to this section shall not be conditioned directly
16 or indirectly, in any way, on the purchase, sale, or distribution of
17 any alcoholic beverage manufactured or distributed by the
18 advertising beer manufacturer, holder of a winegrower's license,
19 California winegrower's agent, holder of a distilled spirits rectifiers
20 general license, distilled spirits manufacturer, or a distilled spirits
21 manufacturer's agent by any on-sale retail licensee.

22 (4) An on-sale licensee operating at a venue described in this
23 subdivision where indoor advertising space or time is purchased
24 shall serve other brands of beer distributed by a competing beer
25 wholesaler in addition to the brands manufactured or marketed by
26 the advertising beer manufacturer, other brands of wine distributed
27 by a competing wine wholesaler in addition to the brands produced
28 or marketed by the advertising winegrower or California
29 winegrower's agent, and other brands of distilled spirits distributed
30 by a competing distilled spirits wholesaler in addition to the brands
31 manufactured or marketed by the advertising distilled spirits
32 manufacturer, the distilled spirits manufacturer's agent, or a holder
33 of a distilled spirits rectifiers general license.

34 (5) No more than 15 percent of the retail licensee's ~~purchases~~
35 ~~of monetary expenditures for~~ distilled spirits and wine for sale on
36 its licensed premises *in any calendar year* shall be *for products*
37 manufactured, produced, or distributed by the holder of a
38 winegrower's license, California winegrower's agent, distilled
39 spirits manufacturer, holder of a distilled spirits rectifiers general

1 license, or a distilled spirits manufacturer's agent that has
2 purchased indoor advertising space.

3 (b) A beer manufacturer, holder of a winegrower's license,
4 California winegrower's agent, holder of a distilled spirits rectifiers
5 general license, distilled spirits manufacturer, or a distilled spirits
6 manufacturer's agent who, through coercion or other illegal means,
7 induces, directly or indirectly, a holder of a wholesaler's license
8 to fulfill those contractual obligations entered into pursuant to
9 subdivision (a) shall be guilty of a misdemeanor and shall be
10 punished by imprisonment in the county jail not exceeding six
11 months, or by a fine equal to the greater of an amount equal to the
12 entire value of the advertising space or time involved in the contract
13 or ten thousand dollars (\$10,000), or by both imprisonment and
14 fine. The person shall also be subject to license revocation pursuant
15 to Section 24200.

16 (c) An on-sale retail licensee who, directly or indirectly, solicits
17 or coerces a holder of a wholesaler's license to solicit a beer
18 manufacturer, holder of a winegrower's license, California
19 winegrower's agent, holder of a distilled spirits rectifiers general
20 license, distilled spirits manufacturer, or a distilled spirits
21 manufacturer's agent to purchase indoor advertising time or space
22 pursuant to subdivision (a) shall be guilty of a misdemeanor and
23 shall be punished by imprisonment in the county jail not exceeding
24 six months, or by a fine equal to the greater of an amount equal to
25 the entire value of the advertising space or time involved in the
26 contract or ten thousand dollars (\$10,000), or by both imprisonment
27 and fine. The person shall also be subject to license revocation
28 pursuant to Section 24200.

29 (d) For purposes of this section, "beer manufacturer" includes
30 a holder of a beer manufacturer's license, a holder of an out-of-state
31 beer manufacturer's certificate, or a holder of a beer and wine
32 importer's general license.

33 (e) Nothing in this section shall authorize the purchasing of
34 indoor advertising space or time pursuant to subdivision (a) by
35 any beer manufacturer, holder of a winegrower's license, a
36 California winegrower's agent, a distilled spirits manufacturer,
37 holder of a distilled spirits rectifiers general license, or a distilled
38 spirits manufacturer's agent directly or indirectly from any on-sale
39 licensee.

(f) A venue owner that meets the description provided in subdivision (a) and that enters into a written agreement pursuant to this section shall obtain an annual certificate from the department. The director shall prepare, as part of the annual report required by Section 23055 for submission to the Legislature, a listing of the number of certifications made pursuant to this section or the absence of any certifications. Where there have been no certifications made pursuant to this section for two consecutive years, this information shall be included in the report.

(g) The Legislature finds that it is necessary and proper to require a separation among manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exception established by this section to the general prohibition against tied interests shall be limited to its express terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

~~SEC. 2.~~

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CORRECTIONS:

Heading—Line 3.

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